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## LICENSE TOBACCO RETAILERS

**House Bill 4116**

**Sponsor: Rep. Harold Voorhees**

**Committee: Regulatory Affairs**

**Complete to 3-19-97**

### **A SUMMARY OF HOUSE BILL 4116 AS INTRODUCED 1-28-97**

The bill would amend the Michigan Liquor Control Act to change the name of the act to the Michigan Liquor and Tobacco Control Act, change the name of the Michigan Liquor Control Commission to the Michigan Liquor and Tobacco Control Commission, license the sale of tobacco products, provide penalties for violating the bill's provisions regulating tobacco, and include tobacco in references to the act's provisions.

The bill would require a person selling tobacco products at retail to be licensed, and sales could only be on the licensed premises. Tobacco products would be defined in the bill to include cigarettes, noncigarette smoking tobacco, smokeless tobacco, and cigars. A person under 18 years old could not sell tobacco products. The bill would also allow the commission to issue a compound license, that could be valid for up to three years, whereby the licensee could sell both alcohol and tobacco products. Further, the commission could issue a multi-year license for the sale of alcohol. Multi-year liquor licenses could be offered at a discount of no more than 15 percent of the annual license fee.

The bill would prohibit the use of a vending machine to sell or distribute tobacco products (or installing a machine with the intent to sell or distribute tobacco products) in public places to which persons under 18 have access. A violation would be a misdemeanor punishable by not more than six months in jail, community service for 45 days or less, up to a \$1,000 fine, or any combination of these penalties. Each day that a vending machine dispenses tobacco products would constitute a separate offense. The bill would repeal a similar provision in the Michigan Penal Code, MCL 750.470.

The commission could promulgate rules under the Administrative Procedures Act, MCL 24.201 et al., in order to implement and administer the licensure provisions of the bill. Violations of the bill or commission rules could result in license suspension or revocation. Any proceeding against a licensee for violations would have to be according to the contested case provisions of the Administrative Procedures Act.

A license application would have to be on a form provided by the commission and include the following (and any changes in this information would have to be reported to the commission within 30 days of the change):

- The name and address of the person being licensed. (Corporations would have to include the names and addresses of the officers and directors.) For other than an individual or corporation, the name and address of each individual having an ownership interest of more than

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10 percent and each individual acting in a supervisory capacity would have to be provided. The application would have to include which, if any, individuals had been convicted of a violation of the Youth Tobacco Prevention Act.

- A diagram of the licensed premises.
- Any information required by the commission as specified in the rules.
- A nonrefundable application fee of \$100.

A license to sell tobacco products would be valid for one year after the date of issuance, and could be renewed by submitting a renewal application and renewal fee of \$50. A late fee of \$25 would be added for renewals not submitted within 30 days of the expiration date of the license. A person residing in another state or country could not be licensed unless he or she designated a resident agent for the acceptance of process. A licensee's business could not be within 500 feet of a K-12 public or private school.

A license could be transferred to another person or location if approved by the commission. Requests would have to be on a form provided by the commission and accompanied by a \$25 fee. A transferred license would automatically expire 90 days after the transfer. During the interim period, the license would be considered a temporary license. Should a license be revoked during the 90-day period, the person could file a new original application and \$100 fee, and would be relicensed as long as the application was filed in a timely manner and met all applicable requirements. (Note: It is not clear whether a new original license would be issued within the 90-day period to an applicant requesting a license transfer. Further, it is not clear if the license revocation being referred to would be a revocation due to a new license not being issued before the automatic expiration at the end of the 90 days, or if it pertains to a license revoked due to a violation of the bill.)

In addition, the bill would change the title of the "liquor control business manager" (whose duties include managing the business affairs of the commission relative to purchasing, merchandising, warehousing, rationing, distributing, inspecting, investigating licensing, and accounting) to the "liquor and tobacco control business manager". Currently, the statute specifies that this position is a classified civil service position. The bill would say that the position "may" be in the state classified civil service.

MCL 436.1 et al.

Analyst: S. Stutzky

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.